



USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#  
DATE FILED: 5/13/08

May 13, 2008

By Facsimile 212-805-7933

Hon. Andrew J. Peck  
United States Magistrate Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: Pilgrim, et al. v. The McGraw-Hill Companies, Inc.,  
Civil Action No. 07-6618 (CM)(AJP)

Dear Magistrate Judge Peck:

We represent Defendant The McGraw-Hill Companies, Inc. ("McGraw-Hill") in the above-referenced matter. Pursuant to your Individual Rules and Local Rule 37.2, we request a conference for permission to move under Federal Rule of Civil Procedure ("FRCP") 26(c) for a protective order precluding Plaintiffs from taking the deposition of Sara McAuley. In the alternative, we ask that you deem this submission such a motion and issue the requested protective order.

Pursuant to FRCP 30(a)(2)(A)(i), plaintiffs must obtain leave of court to take a deposition if the deposition "would result in more than ten (10) depositions being taken under [Rule 30] or Rule 31 by the plaintiffs . . ." In this case, Plaintiffs have already taken ten depositions – (1) Sheila O'Neill, Vice President Human Resources, IMS (2/29/08); (2) Richard Fisher, Vice President Human Resources, Corporate (3/5/08); (3) Marianne Gattinella, Vice President Human Resources, Corporate (3/28/08); (4) John Gillen, Senior Director of Workplace Initiatives, Human Resources, S&P (4/8/08); (5) Bill Harper, Vice President Human Resources, IMS Business Information Group (4/9/08); (6) Ken Caruso, Senior Director of Human Resources, IMS (4/15/08); (7) Brett Marschke, former Vice President Human Resources, IMS (4/18/08); (8) Dawanna Veneable, Director of Quality & Criteria, Structured Finance Division, S&P (4/21/08); (9) David Murphy, Executive Vice President of Human Resources (5/2/08); and (10) Vladimir Stadnyk, Executive Managing Director of Operations Services (5/7/08). As such, Plaintiffs' notice of Ms. McAuley's deposition is improper, because it is beyond the ten (10) depositions

1585 Broadway  
New York, NY 10036-8298  
Telephone 212.989.3000  
Fax 212.989.2900

BOCA RATON  
BOSTON  
CHICAGO  
LONDON  
LOS ANGELES  
NEW ORLEANS  
NEWARK  
PARIS  
SAO PAULO  
WASHINGTON

Gregory I. Raslin  
Member of the Firm

Direct Dial 212.989.3940  
graslin@proskauer.com

MEMO ENDORSED *p2*

PROSKAUER ROSE LLP

Honorable Andrew Peck  
May 13, 2008  
Page 2

permitted under FRCP 30 and Plaintiffs have failed to obtain leave of court to take any additional depositions.

Additionally, even if Plaintiffs were to seek leave of court for Ms. McAuley's deposition, such leave should not be granted. Ms. McAuley is the Senior Vice President, Human Resources, S&P. She was not a direct supervisor for any of the Plaintiffs at any time. Ms. McAuley had no involvement with Plaintiffs Curtis, Spencer and Henson, and her only "involvement" with Plaintiff Pilgrim is that she supervises Richard Fisher, Plaintiff Pilgrim's former supervisor. Plaintiffs have already deposed nine employees from McGraw-Hill's Human Resources Department, including the Executive Vice President of Human Resources and all of Plaintiffs' supervisors. Specific to Plaintiff Pilgrim, Plaintiffs have deposed Mr. Fisher and Dawanna Veneable, Plaintiff Pilgrim's direct supervisors, Marianne Gattinella, the individual who investigated Plaintiff Pilgrim's claims of discrimination, and John Gillen, Plaintiff Pilgrim's mentor, as well as David Murphy, the top human resources executive at McGraw-Hill. Ms. McAuley's deposition would, at best, be duplicative and has been noticed only to harass Ms. McAuley and McGraw-Hill. Thus, pursuant to FRCP 26(b)(2)(C)(i) and 26(c)(i)(A), the Court should issue an order precluding this deposition.

On May 12, 2008, I telephoned Plaintiffs' counsel, Lawrence Solotoff, to discuss this issue. Mr. Solotoff was not in and I left a message and asked that he return my call. On May 13, 2008, I spoke to Mr. Solotoff and requested he withdraw the notice for Ms. McAuley's deposition. Mr. Solotoff refused. As such, McGraw-Hill has acted in good faith to confer with Plaintiffs' counsel to resolve this issue without motion practice.

Very truly yours,

*Gregory Rasin*  
Gregory I. Rasin

cc: Lawrence Solotoff, Esq. (via facsimile)

MEMO ENDORSED 5/13/08

*20 days notice of Ms. McAuley's deposition for H's  
failure to comply with FRCP 30 (d)(2)(A)(i).*

SO ORDERED:

*[Signature]*  
Hon. Andrew Jay Peck  
United States Magistrate Judge

BY FAX

*copy to H's  
Jep McMahon*

7735/50017-013 Current/11040980v1

# FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933  
Telephone No.: (212) 805-0036

**Dated:** May 13, 2008

**Total Number of Pages:** 3

TO	FAX NUMBER
Lawrence Solotoff, Esq.	516-466-5562
Gregory I. Rasin, Esq.	212-969-2900

## **TRANSCRIPTION:**

**MEMO ENDORSED 5/13/08**

**The depo notice of Ms. McAuley is struck for plaintiffs' failure to comply with Fed. R. Civ. P. 30(a)(2)(A)(i).**

**Copy to: Judge Colleen McMahon**